

REMARKS

Claims 38-66 are currently pending in this application. Claims 38, 51 and 56 have been amended. Claims 1-37 were previously canceled. Applicant respectfully requests reconsideration of the pending claims.

Claim Rejections – 35 U.S.C. § 102

The Examiner rejected Claims 38-42, 45, 47-59, 62 and 64-66 under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 4,276,797 ("Baumann").

Baumann does not teach or suggest the subject matter of amended independent Claim 38. Specifically, Baumann does not teach or suggest an apparatus for cutting a web, the apparatus comprising a cutting assembly having a length and including a plurality of independently actuated blades positioned along the length of the cutting assembly, at least one blade being operable to sever the web and at least one blade remaining retracted during a full rotation of the cutting assembly.

Rather, Baumann discloses a paper towel dispenser 10 that dispenses paper towel 15 when a user pulls on the paper towel projecting from the housing 13. A piece of paper towel 15 is dispensed and automatically cut to a predetermined length. The housing 13 includes a bladed roller 67 with a plurality of cutting blades 68a. Col. 4, lines 27-31; Fig. 6a. Each blade 68a is positioned at the end of a lever 60, which is pivotably mounted on the inside wall of the roll 67. Col. 4, lines 31-33; Fig. 6a. Each lever 60 is in contact with a cam disc 63 such that when the roller 67 rotates, the blade 68a is moved in and out of a slot 64 to perform a cutting operation on the paper towel 15. Col. 4, lines 33-42; Fig. 6a. All of the blades 68a perform the cutting operation during each rotation of the bladed roller 67. Figs. 6a and 6b. The blades 68a must be arranged in a pattern such that the cutting line leaves an adequate piece of the following paper towel in order to be ready for the next dispensing operation. Col. 4, lines 4-13; Fig. 6a. The pattern of the cutting lines for blades 68a is illustrated in Fig. 6b.

For these and other reasons, Baumann does not teach or suggest the subject matter defined by independent Claim 38. Accordingly, independent Claim 38 is allowable. Dependent Claims 39-50 depend from independent Claim 38 and are allowable for the same and other reasons.

Baumann does not teach or suggest the subject matter of amended independent Claim 51. Specifically, Baumann does not teach or suggest an apparatus for cutting a moving web, the apparatus comprising a plurality of blades operable to independently extend and retract from

the cutting assembly, at least one blade being operable to cut the web while at least one blade remains retracted during a full rotation of the cutting assembly.

Rather, Baumann discloses a plurality of blades 68a that perform a cutting operation on paper towel during each rotation of the bladed roller 67. In Baumann, all of the blades 68a perform the cutting operation during each rotation of the bladed roller 67. Figs. 6a and 6b.

For these and other reasons, Baumann does not teach or suggest the subject matter defined by independent Claim 51. Accordingly, independent Claim 51 is allowable. Dependent Claims 52-55 depend from independent Claim 51 and are allowable for the same and other reasons.

Baumann does not teach or suggest the subject matter of amended independent Claim 56. Specifically, Baumann does not teach or suggest an apparatus for cutting a moving web, the apparatus comprising a cutting assembly including a plurality of blades, each blade being operable to move from a first position to a second position, at least one blade being operable to move into the second position to cut the web while at least one blade remains in the first position during a full rotation of the cutting assembly.

Rather, Baumann discloses a plurality of blades 68a that perform a cutting operation on paper towel during each rotation of the bladed roller 67. In Baumann, all of the blades 68a perform the cutting operation during each rotation of the bladed roller 67. Figs. 6a and 6b.

For these and other reasons, Baumann does not teach or suggest the subject matter defined by independent Claim 56. Accordingly, independent Claim 56 is allowable. Dependent Claims 57-66 depend from independent Claim 56 and are allowable for the same and other reasons.

Claim Rejections – 35 U.S.C. § 103

The Examiner rejected Claims 38-45, 47-62 and 64-66 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 2,274,452 ("Macfarren") in view of Baumann.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations.

Macfarren does not teach or suggest the subject matter of amended independent Claim 38. Specifically, Macfarren does not teach or suggest an apparatus for cutting a web, the

apparatus comprising a cutting assembly having a length and including a plurality of independently actuated blades positioned along the length of the cutting assembly, at least one blade being operable to sever the web and at least one blade remaining retracted during a full rotation of the cutting assembly.

Rather, Macfarren discloses a high speed (2500-4000 ft/min) flying shears for cutting metal bars into sectional lengths. The flying shears includes a lower knife carrier or drum 14 and an upper knife carrying drum 15. Page 3, first column, lines 63-66. The knives 50, 70 are positioned in evenly spaced slots 38, 69, respectively, around the circumference of the drums 14, 15, respectively. The knives 50, 70 can be adjusted "to cut or not to cut" depending on the desired length of the metal bar. Page 4, second column, lines 23-27. The knives 50, 70 are adjusted with compressed air cylinders 85. Page 5, second column, lines 1-5; Fig. 8. The flying shears utilizes knives 50, 70 evenly spaced around the circumference of the drums 14, 15 in order to get relatively similar cut lengths of the metal bar and to prevent edges which are ragged and of inferior quality. Page 1, second column, lines 18-25; pages 11, second column, lines 24-50.

In addition, the Examiner acknowledged, at paragraph 6 of the present Office action, that Macfarren does not teach or suggest a plurality of blade segments distributed along the length of the cutting cylinder and respective actuators for the blade segments. Rather, Macfarren discloses flying shears for cutting metal bars. Macfarren also does not teach or suggest an apparatus for cutting a web, the apparatus comprising a cutting assembly having a length and including a plurality of independently actuated blades positioned along the length of the cutting assembly, at least one blade being operable to sever the web and at least one blade remaining retracted during a full rotation of the cutting assembly. For these and other reasons, Macfarren does not teach or suggest the subject matter defined by independent Claim 38.

Baumann does not cure the deficiencies of Macfarren. As discussed above, Baumann does not teach or suggest, among other things, an apparatus for cutting a web, the apparatus comprising a cutting assembly having a length and including a plurality of independently actuated blades positioned along the length of the cutting assembly, at least one blade being operable to sever the web and at least one blade remaining retracted during a full rotation of the cutting assembly. Rather, Baumann discloses a plurality of blades 68a that perform a cutting operation on paper towel during each rotation of the bladed roller 67. Again, in Baumann, all of the blades 68a perform the cutting operation during each rotation of the bladed roller 67. Figs. 6a and 6b.

Additionally, there is no suggestion or motivation to combine the reference teachings, and the references actually teach away from such a combination. In paragraph 6 of the Office action, the Examiner contends that it would have been obvious to provide the device of Macfarren with the plurality of blades having respective actuators as suggested by Baumann in order to facilitate selective widthwise cutting of the web of material. Applicant respectfully disagrees.

As an initial matter, Applicant respectfully contends that Macfarren is non-analogous art. Macfarren discloses a high speed (2500-4000 ft/min) flying shears for cutting metal bars into sectional lengths. Macfarren is not related to an apparatus for cutting a web material. Macfarren does not discuss or hint at solving problems related to an apparatus for cutting a web material. A person of ordinary skill in the art relating to an apparatus for cutting a web material would have no reason to review art related to a high speed (2500-4000 ft/min) flying shears for cutting metal bars. Furthermore, Macfarren is classified in Class 164, related to metal founding. At publication, the present Application was classified in Class 83, related to cutting, as is Baumann. Neither class includes a cross-reference to search the other class.

In addition, there is no suggestion or motivation in the references to combine the blades 68a and cam system of Baumann that controls the movement of the blades 68a with knives that are adjustable with compressed air cylinders as in Macfarren. In fact, Macfarren and Baumann teach away from the suggested combination. The paper towel dispenser in Baumann includes a plurality of blades 68a spanning the length of the roller 67. In Baumann, all of the blades 68a perform the cutting operation during each rotation of the bladed roller 67, however, the blades 68a do not all cut at the same time. The dispenser in Baumann requires an uneven cut to the paper towel, such as the cut illustrated in Figs. 2b, 3b, 4b, 6b and 7b, to provide material to pull for the next user. If the plurality of blades in Baumann were combined with the flying shears in Macfarren, the metal bars would be cut unevenly and have jagged edges, which is inapposite to and teaches away from providing a flying shears that provides relatively even length metal bars without ragged edges, as desired by Macfarren.

For these and other reasons, Macfarren and Baumann, alone or in combination, do not teach or suggest all of the claim limitations of independent Claim 38. Further, Macfarren is non-analogous art, there is no teaching or suggestion to combine the references, and, in fact, the references teach away from such a combination. Therefore, Applicants respectfully submit that the Examiner has failed to present a *prima facie* case of obviousness of Claim 38 based upon the prior art as required by 35 U.S.C. §103.

For these and other reasons, Macfarren and Baumann, alone or in combination, do not teach or suggest the subject matter defined by independent Claim 38. Accordingly, independent Claim 38 is allowable. Dependent Claims 39-50 depend from independent Claim 38 and are allowable for the same and other reasons. In addition, the additional subject matter defined by the dependent claims, such as, for example, Claim 46, provides separate bases for allowance.

Claim 46 depends from independent Claim 38 and from dependent Claim 45 and further specifies that the cutting assembly includes a cylinder having a circumference and wherein the hinge axis is radially external to the circumference of the cutting cylinder. The Examiner has not indicated that Macfarren and Baumann disclose the additional subject matter defined by Claim 46, and, therefore, Applicant respectfully submits that the Examiner has not established a *prima facie* case of obviousness of Claim 46. For these and other reasons, Claim 46 is allowable.

Macfarren does not teach or suggest the subject matter of amended independent Claim 51. Specifically, Macfarren does not teach or suggest an apparatus for cutting a moving web, the apparatus comprising a plurality of blades operable to independently extend and retract from the cutting assembly, at least one blade being operable to cut the web while at least one blade remains retracted during a full rotation of the cutting assembly.

In addition, the Examiner acknowledged, at paragraph 6 of the present Office action, that Macfarren does not teach or suggest a plurality of blade segments distributed along the length of the cutting cylinder and respective actuators for the blade segments. Rather, Macfarren discloses flying shears for cutting metal bars. Macfarren also does not teach or suggest an apparatus for cutting a moving web, the apparatus comprising a plurality of blades operable to independently extend and retract from the cutting assembly, at least one blade being operable to cut the web while at least one blade remains retracted during a full rotation of the cutting assembly. For these and other reasons, Macfarren does not teach or suggest the subject matter defined by independent Claim 51.

As discussed above, Baumann does not cure the deficiencies of Macfarren. Baumann does not teach or suggest, among other things, an apparatus for cutting a moving web, the apparatus comprising a plurality of blades operable to independently extend and retract from the cutting assembly, at least one blade being operable to cut the web while at least one blade remains retracted during a full rotation of the cutting assembly. Rather, Baumann discloses a plurality of blades 68a that perform a cutting operation on paper towel during each rotation of the bladed roller 67. Again, in Baumann, all of the blades 68a perform the cutting operation during each rotation of the bladed roller 67. Figs. 6a and 6b.

Additionally, there is no suggestion or motivation to combine the reference teachings, and the references actually teach away from such a combination. Rather than re-present the arguments set forth above with respect to this contention, for brevity's sake, Applicant refers to the discussion above for Claim 38. With respect to independent Claim 51, the same arguments apply to Macfarren being non-analogous art, to the lack of suggestion in the references that the teaching of the references should or could be combined and to the contention that the references actually teach away from the combination suggested by the Examiner.

For these and other reasons, Macfarren and Baumann, alone or in combination, do not teach or suggest all of the claim limitations of independent Claim 51. Further, Macfarren is non-analogous art, there is no teaching or suggestion to combine the references, and, in fact, the references teach away from such a combination. Therefore, Applicants respectfully submit that the Examiner has failed to present a *prima facie* case of obviousness of Claim 51 based upon the prior art as required by 35 U.S.C. §103.

For these and other reasons, Macfarren and Baumann, alone or in combination, do not teach or suggest the subject matter defined by independent Claim 51. Accordingly, independent Claim 51 is allowable. Dependent Claims 52-55 depend from independent Claim 51 and are allowable for the same and other reasons.

Macfarren does not teach or suggest the subject matter of amended independent Claim 56. Specifically, Macfarren does not teach or suggest an apparatus for cutting a moving web, the apparatus comprising a cutting assembly including a plurality of blades, each blade being operable to move from a first position to a second position, at least one blade being operable to move into the second position to cut the web while at least one blade remains in the first position during a full rotation of the cutting assembly.

In addition, the Examiner acknowledged, at paragraph 6 of the present Office action, that Macfarren does not teach or suggest a plurality of blade segments distributed along the length of the cutting cylinder and respective actuators for the blade segments. Rather, Macfarren discloses flying shears for cutting metal bars. Macfarren also does not teach or suggest an apparatus for cutting a moving web, the apparatus comprising a cutting assembly including a plurality of blades, each blade being operable to move from a first position to a second position, at least one blade being operable to move into the second position to cut the web while at least one blade remains in the first position for a full rotation. For these and other reasons, Macfarren does not teach or suggest the subject matter defined by independent Claim 56.

As discussed above, Baumann does not cure the deficiencies of Macfarren. Baumann does not teach or suggest, among other things, an apparatus for cutting a moving web, the apparatus comprising a cutting assembly including a plurality of blades, each blade being operable to move from a first position to a second position, at least one blade being operable to move into the second position to cut the web while at least one blade remains in the first position for a full rotation. Rather, Baumann discloses a plurality of blades 68a that perform a cutting operation on paper towel during each rotation of the bladed roller 67. Again, in Baumann, all of the blades 68a perform the cutting operation during each rotation of the bladed roller 67. Figs. 6a and 6b.

Additionally, there is no suggestion or motivation to combine the reference teachings, and the references actually teach away from such a combination. Rather than re-present the arguments set forth above with respect to this contention, for brevity's sake, Applicant refers to the discussion above for Claim 38. With respect to independent Claim 56, the same arguments apply to Macfarren being non-analogous art, to the lack of suggestion in the references that the teaching of the references should or could be combined and to the contention that the references actually teach away from the combination suggested by the Examiner.

For these and other reasons, Macfarren and Baumann, alone or in combination, do not teach or suggest all of the claim limitations of independent Claim 56. Further, Macfarren is non-analogous art, there is no teaching or suggestion to combine the references, and, in fact, the references teach away from such a combination. Therefore, Applicants respectfully submit that the Examiner has failed to present a *prima facie* case of obviousness of Claim 56 based upon the prior art as required by 35 U.S.C. §103.

For these and other reasons, Macfarren and Baumann, alone or in combination, do not teach or suggest the subject matter defined by independent Claim 56. Accordingly, independent Claim 56 is allowable. Dependent Claims 57-66 depend from independent Claim 56 and are allowable for the same and other reasons. In addition, the additional subject matter defined by the dependent claims, such as, for example, Claim 63, provides separate bases for allowance.

Claim 63 depends from independent Claim 56 and from dependent Claim 62 and further specifies that the cutting assembly includes a cylinder having a circumference and wherein the hinge axis is radially external to the circumference of the cutting cylinder. The Examiner has not indicated that Macfarren and Baumann disclose the additional subject matter defined by Claim 63, and, therefore, Applicant respectfully submits that the Examiner has not established a *prima facie* case of obviousness of Claim 63. For these and other reasons, Claim 63 is allowable.

Double Patenting

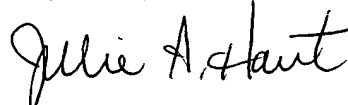
The Examiner rejected Claims 38-66 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-45 of U.S. Patent No. 6,722,243.

In order to expedite prosecution of the present application, without admitting that claims of U.S. Patent No. 6,722,243 encompass the same subject matter as the present application and without admitting that the subject matter of Claims 38-66 of the present application is obvious over claims of U.S. Patent No. 6,722,243, a Terminal Disclaimer in accordance with 37 C.F.R. § 1.321(c) has been filed with the present Response to overcome this rejection.

CONCLUSION

In view of the foregoing, allowance of the application is respectfully requested. The undersigned is available for telephone consultation during normal business hours.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Julie A. Haut". The signature is fluid and cursive, with the first name "Julie" being more prominent.

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